

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICKY CLAYBURN,

1:02-cv-06588-REC-LJO-P

Plaintiff,

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS** (Doc. 40)

vs.

A.K. SCRIBNER, et al.,

**ORDER DISMISSING ACTION,
WITHOUT PREJUDICE, PURSUANT TO
RULE 4 (M)**

Defendants.

Plaintiff Ricky Clayburn ("plaintiff"), a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On June 28, 2005, the Magistrate Judge filed a Findings and Recommendations herein which was served on plaintiff and which contained notice to plaintiff that any objection to the Findings and Recommendations was to be filed within thirty (30) days. On August 1, 2005, plaintiff filed an objection to the Magistrate Judge's Findings and Recommendations.

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1 In accordance with the provisions of 28 U.S.C.
2 § 636(b)(1)(C) and Local Rule 73-305, this Court has conducted a
3 de novo review of this case. Having carefully reviewed the
4 entire file, the Court finds the Findings and Recommendations to
5 be supported by the record and by proper analysis.

6 Plaintiff provides no explanation for his failure to comply
7 with the Court's order of February 2, 2005. Pursuant to that
8 order, discovery was opened and plaintiff was ordered to provide
9 the Court with defendant Doe's identity within one-hundred twenty
10 days. Fed. R. Civ. P. 4(m). Plaintiff neither complied with the
11 order nor otherwise contacted the Court prior to the issuance of
12 the Findings and Recommendations. Although plaintiff objected to
13 the Findings and Recommendations, plaintiff's objection sets
14 forth no grounds that support setting aside the Findings and
15 Recommendations.

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. The Findings and Recommendations, filed June 28, 2005,
18 is ADOPTED IN FULL; and,

19 2. This action is DISMISSED, without prejudice, pursuant
20 to Federal Rule of Civil Procedure 4(m), based on plaintiff's
21 failure to provide information sufficient for the Court to direct
22 the Marshal to initiate service of the summons and complaint.

23 IT IS SO ORDERED.

24 Dated: August 18, 2005
25 668554

/s/ Robert E. Coyle
UNITED STATES DISTRICT JUDGE